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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

JEFF HATCH-MILLER, Chairman  
MARC SPITZER  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES

Arizona Corporation Commission

**DOCKETED**

APR 11 2005

APR 12 2005

DOCKETED BY

AZ Corporation Commission  
Director Of Utilities

NR

IN THE MATTER OF THE APPLICATION OF  
ACCESS2GO, INC. FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
COMPETITIVE RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04279A-04-0748

DECISION NO. 67756

**ORDER**

Open Meeting  
April 5 and 6, 2005  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On October 15, 2004, Access2Go, Inc. ("Applicant" or "AGI") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange telecommunications services, except local exchange services, within the State of Arizona.

2. Applicant is a switchless reseller that purchases telecommunications services from a variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") are public service corporations subject to the jurisdiction of the Commission.

4. AGI has authority to transact business in the State of Arizona.

5. On November 17, 2004, Applicant filed an Affidavit of Publication indicating

1 compliance with the Commission's notice requirements.

2       6.       On December 20, 2004, the Commission's Utilities Division Staff ("Staff") filed a  
3 Staff Report which includes Staff's fair value rate base determination in this matter and recommends  
4 approval of the application subject to certain conditions.

5       7.       In the Staff Report, Staff stated that AGI provided unaudited financial statements for  
6 the six months ending June 30, 2004, which list assets in excess of \$225,000, equity in excess of  
7 \$190,000 and a net income of \$134,308.

8       8.       In its Staff Report, Staff stated that based on information obtained from the Applicant,  
9 it has determined that AGI's fair value rate base ("FVRB") is zero and is not useful in a fair value  
10 analysis, and is not useful in setting rates. Staff further stated that in general, rates for competitive  
11 services are not set according to rate of return regulation. Staff has reviewed the rates to be charged  
12 by the Applicant and believes they are just and reasonable as they are comparable to several long  
13 distance carriers operating in Arizona and comparable to the rates the Applicant charges in other  
14 jurisdictions. Therefore, while Staff considered the FVRB information submitted by the Applicant,  
15 they FVRB information provided should not be given substantial weight in this analysis.

16       9.       Staff believes that AGI has no market power and that the reasonableness of its rates  
17 will be evaluated in a market with numerous competitors. In light of the competitive market in which  
18 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed  
19 tariffs for its competitive services will be just and reasonable, and recommends that the Commission  
20 approve them.

21       10.       Staff recommended approval of AGI's application subject to the following:

22               (a)       The Applicant should be ordered to comply with all Commission rules, orders,  
23 and other requirements relevant to the provision of intrastate telecommunications  
24 service;

25               (b)       The Applicant should be ordered to maintain its accounts and records as  
26 required by the Commission;

27               (c)       The Applicant should be ordered to file with the Commission all financial and  
28 other reports that the Commission may require, and in a form and at such times as the  
Commission may designate;

(d) The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;

(e) The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;

(f) The Applicant should be ordered to cooperate with Commission investigations including, but not limited to customer complaints;

(g) The Applicant should be ordered to participate in and contribute to the Arizona Universal Service Fund, as required by the Commission;

(h) The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's name, address or telephone number;

(i) The Applicant's interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(j) The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;

(k) In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate;

(l) In the event the Applicant requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107;<sup>1</sup> and

(m) If at some future date, Applicant wants to collect advances, deposits and/or prepayments from its customers, Staff recommends that Applicant be required to file an application with the Commission for approval. Such application must reference the Decision in this docket and must explain Applicant's plans for procuring its performance bond.

11. Staff further recommended that AGI's Certificate should be conditioned upon the Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first.

12. Although in its initial proposed tariff, AGI indicated that it would collect from its

<sup>1</sup> Pursuant to A.A.C. R14-2-1107, the Applicant is required to comply and obtain Commission authorization of compliance with all of the requirements, including but not limited to the notice requirements, prior to discontinuance of service and/or abandonment of its service area.

1 customers an advance, deposit, and/or prepayment, after Staff recommended that the Commission  
2 impose a \$10,000 performance bond, AGI filed five substitute pages for its tariff which replace the  
3 previous pages and eliminate the requirement for the payment of advances, deposits and/or  
4 prepayments by customers.

5 13. On March 2, 2005, Staff filed a Supplemental Staff Report in which Staff does not  
6 recommend a performance bond be imposed by the Commission.

7 14. Staff recommended that if the Applicant fails to meet the timeframes outlined in  
8 Findings of Fact No. 11, that AGI's Certificate should become null and void without further Order of  
9 the Commission, and that no time extensions for compliance should be granted.

10 15. The rates proposed by this filing are for competitive services.

11 16. Staff's recommendations as set forth herein are reasonable.

12 17. AGI's fair value rate base is zero.

13 **CONCLUSIONS OF LAW**

14 1. Applicant is a public service corporation within the meaning of Article XV of the  
15 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

16 2. The Commission has jurisdiction over Applicant and the subject matter of the  
17 application.

18 3. Notice of the application was given in accordance with the law.

19 4. Applicant's provision of resold interexchange telecommunications services is in the  
20 public interest.

21 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for  
22 providing competitive resold interexchange telecommunications services in Arizona.

23 6. Staff's recommendations in Findings of Fact No. 8, 9, 10, 11, 12, and 14 should be  
24 adopted.

25 7. AGI's fair value rate base is not useful in determining just and reasonable rates for the  
26 competitive services it proposes to provide to Arizona customers.

27 8. AGI's rates, as they appear in its proposed tariffs, are just and reasonable and should  
28 be approved.

**ORDER**

IT IS THEREFORE ORDERED that the application of Access2Go, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, is hereby granted, conditioned upon its compliance with the conditions recommended by Staff as set forth in Findings of Fact Nos. 10, 11 and 12 above.

IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos. 8, 9, 10, 11, 12 and 14 above are hereby adopted.

IT IS FURTHER ORDERED that Access2Go, Inc. shall comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 10 and 11.

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IT IS FURTHER ORDERED that if Access2Go, Inc. fails to meet the timeframes outlined in Findings of Fact No. 11 above that the Certificate conditionally granted herein shall become null and void without further Order of the Commission.

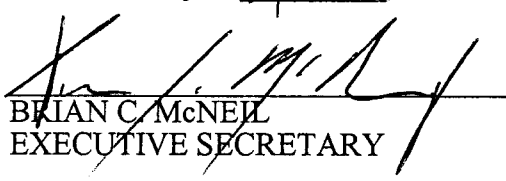
IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN  COMMISSIONER  COMMISSIONER

 COMMISSIONER  COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 11<sup>th</sup> day of April, 2005.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:mlj

1 SERVICE LIST FOR: ACCESS2GO, INC.

2 DOCKET NO.: T-04279A-04-0748

3  
4 Judith Riley  
5 TELECOM PROFESSIONALS, INC.  
6 2912 Lakeside Drive, Ste. 100  
7 Oklahoma City, OK 73120

8 Christopher Kempley, Chief Counsel  
9 Legal Division  
10 ARIZONA CORPORATION COMMISSION  
11 1200 West Washington Street  
12 Phoenix, Arizona 85007

13 Ernest G. Johnson, Director  
14 Utilities Division  
15 ARIZONA CORPORATION COMMISSION  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007  
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